

# In the Court of Appeals of the State of Alaska

**Jeffrey Eric Brigman,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-12727**

## **Order**

Petition for Rehearing

Date of Order: **July 6, 2022**

Trial Court No. **3AN-13-09635CR**

Before: Allard, Chief Judge, Harbison, Judge, and  
Mannheimer, Senior Judge.\*

The Appellant, Jeffrey Eric Brigman, seeks rehearing of our decision in his case: *Brigman v. State*, \_\_\_ P.3d \_\_\_, Op. No. 2724, 2022 WL 1195056 (Alaska App. April 22, 2022). Brigman contends that this Court overlooked or misperceived the fact that the record supports Brigman’s assertion that witness Thomas Jenkins described the driver of the car as having “longer, curly, and wavy hair.” We have reviewed the trial court record and have confirmed that Brigman is correct. We have also determined that this fact does not materially affect our analysis. Brigman’s remedy is therefore limited to correction of the factual inaccuracy in the opinion.

Accordingly, IT IS ORDERED:

1. The petition for rehearing is GRANTED.
2. The paragraph that spans pages 19-20 and the first full paragraph on page 20 of our slip opinion shall be struck and replaced with the following text:

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\* Sitting by assignment made pursuant to Article IV, Section 11 of the Alaska Constitution and Administrative Rule 23(a).

Brigman also asserts that Jenkins misidentified Brigman's hair. It is true that Jenkins initially described the driver as having "longer" and "wavy" or "curly" hair. But the photograph in the record shows that Brigman's hair could reasonably be described as "longer" compared to the shorter haircut that many men have. At trial, Jenkins acknowledged that Brigman's hair looked different in the photograph than he had originally described it, but he accounted for that difference because the hair looked "messed up" in the photograph. The superior court credited this explanation in its analysis, noting that there was a light rain or mist "which could have altered the look of a person's hair."<sup>65</sup>

Entered at the direction of the Court.

Clerk of the Appellate Courts



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Ryan Montgomery-Sythe,  
Chief Deputy Clerk

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<sup>65</sup> We note that, at the evidentiary hearing on remand, one of the police officers testified that Brigman's hair looked "wavy" but not "curly." The same officer testified that whether a person can be described as having "longer" hair was a subjective standard that depended on what the person's hair was being compared to.

*Brigman v. State* - p. 3  
File No. A-12727  
July 6, 2022

cc: Court of Appeals Judges  
Judge Saxby  
Trial Court Clerk - Anchorage  
Publishers (Opinion No. 2724, April 22, 2022)

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